

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JHON WANG,

Plaintiff,

v.

**TRYSON METAL STAMPINGS AND
MANUFACTURING, INC.,**

Defendant.

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Case No. 16 C 5971

MEMORANDUM ORDER

Because Jhon Wang ("Wang") did not file his EEOC Charge of Discrimination against Tryson Metal Stampings and Manufacturing, Inc. ("Tryson") within 300 days after his discharge (he was all of 2 days late), Tryson's counsel filed a motion to dismiss this action that claimed Wang had been the victim of employment discrimination. This Court does not fault counsel for that "gotcha!" effort -- the law firm's responsibility to Tryson as its client may call for that effort -- but as Wang's response to the motion to dismiss discloses, the circumstances of Wang's interaction with the EEOC call into play the Supreme Court's holding in Fed. Express Corp. v. Holowecki, 552 U.S. 389 (2008) that confirms the timeliness of Wang's charge of discrimination and hence of this action. Indeed, Wang's counsel also calls to his aid our Court of Appeals' opinion in EEOC v. Watkins Motor Lines, Inc., 553 F.3d 593, 597-98 (7th Cir. 2009) that encapsules that Supreme Court decision in these terms applicable to Wang's situation:

We know from Federal Express Corp. v. Holowecki, -- U.S. --, 128 S.Ct. 1147, 170 L.Ed.2d 10 (2008), that a document may be a "charge" even if it lacks an appropriate caption and charging language. A piece of paper that alleges discrimination and asks the agency to take remedial action suffices.

Accordingly Tryson's motion to dismiss Wang's Complaint is denied, and it is ordered to answer the Complaint on or before October 12, 2016. This Court however retains the previously-set September 22 status hearing date for purposes of setting a further schedule to move the case forward.

A handwritten signature in black ink, reading "Milton I. Shadur". The signature is written in a cursive, flowing style.

Milton I. Shadur
Senior United States District Judge

Date: September 20, 2016